

Vu, Anthony T.

S/N: 09/682,366

**REMARKS**

Claims 1-27 are pending in the present application. In the Office Action mailed December 15, 2004, the Examiner objected to claims 11, 16, and 18 because of informalities. The Examiner rejected claims 18, 20, 21, 23, 25, and 27 under 35 U.S.C. §102(c) as being anticipated by Kaufman et al. (USP 6,690,961). The Examiner next rejected claims 18, 20, 25, and 27 under 35 U.S.C. §102(c) as being anticipated by Zhang (USP 6,801,037). Claims 11, 14, 15, and 17 were rejected under 35 U.S.C. §102(e) as being anticipated by Kaufman et al. or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Kaufman et al. in view of Zhang. Applicant appreciates the indication that claims 1-10 are allowed and that claims 12, 13, 16, 19, 22, 24, and 26 would be allowable if written in independent form.

**Claim Objections**

The Examiner objected to claims 11, 16, and 18 for informalities. In particular, the Examiner objected to claim 11 because "'2D and 3D' should be -2D or 3D-." While Applicant does not necessarily agree with the Examiner's interpretation, Applicant has amended the claims as suggested.

The Examiner also objected to the capitalization in the word "Assembly" in claim 11. Applicant has amended claim 11 to correct this typographical error.

The Examiner also objected to claim 16 suggesting that the word "ad" should be "and." Applicant agrees and has amended the claim to correct this typographical error.

The Examiner next objected to claim 18 again stating that "2D and 3D" should be "2D or 3D." As with claim 11, Applicant had amended the claim accordingly. No adverse inference is to be drawn from either amendment since both amendments are broadening amendments.

**Claim Rejections**

Substantively, the Examiner rejected claims 18, 20, 21, 23, 25, and 27 as being anticipated by Kaufman et al. The Examiner also rejected claims 18, 20, 25, and 27 as being anticipated by Zhang. Similarly, the Examiner rejected claims 11, 14, 15, and 17 as anticipated under §102(c) by Kaufman et al. or, in the alternative, as being unpatentable under §103(a) over Kaufman et al. in view of Zhang.

Regarding the rejection of claim 11 as anticipated by Kaufman et al. or, in the alternative, as obvious over Kaufman et al. in view of Zhang, Applicant has amended claim 11 to clarify the invention. Specifically, Applicant has amended claim 11 to clarify that a "selected pulse sequence" is used to acquire MR image data in 2D and 3D. That is, a particular selected pulse

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sequence is modifiable to be used to acquire both 2D and 3D MR image data. While both Kaufman et al. and Zhang teach user interfaces that allow the selection of 2D or 3D imaging processes, neither Kaufman et al. nor Zhang teach or suggest that the same selected pulse sequence is used to acquire both 2D and 3D imaging data. For at least this reason, claim 11 is patentably distinct from the art of record. Accordingly, claims 12-17 are in condition for allowance at least pursuant to the chain of dependency.

Regarding the rejection of claim 18 as anticipated by Kaufman et al., the Examiner stated that Kaufman et al. teaches "an MRI apparatus including software (col. 10 lines 30-35) for using a common pulse sequence (e.g., SE, FSE, etc. see element 352) to acquire MR images in 2D and 3D (element 354)." However, Applicant respectfully disagrees because Kaufman et al. does not teach or suggest that the acquisition of MR images in 2D and 3D are by "using a common pulse sequence."

The Examiner cited Fig. 4A and accompanying description of Kaufman et al. for support of the rejection of claim 18. However, Fig. 4A only shows "exemplary display screen shots of MR image parameter settings for diagnostic and fluoro-mode imaging." Col. 4, lns. 17-19. That is, Fig. 4A shows a user interface that enables a user to select parameters for an impending scan. While Fig. 4A and elements 352 and 354 show that the user interface allows the user to select between various imaging processes (i.e. FE, SE, 2D, or 3D), nowhere does Fig. 4A, or Kaufman et al. as a whole, teach or suggest that these various imaging processes are conducted using a "common pulse sequence" to acquire MR images in 2D or 3D. That is, while claim 18 calls for using a common pulse sequence for the acquisition of 2D MR images as well as 3D images, Kaufman et al. makes no teaching or suggestion to conclude that a common pulse sequence is used for a selected 2D acquisition and a selected 3D acquisition.

Regarding the rejection of claim 18 as anticipated by Zhang, the Examiner stated that Zhang teaches "an MR computer program using a common pulse sequence (e.g., SE, FSE, etc.) to acquire MR images in 2D and 3D (1020)." However, Zhang does not teach or suggest applying a common pulse sequence to acquire either a 2D or a 3D image, as presently claimed.

Zhang teaches a user interface to facilitate designing an imaging sequence. The interface, as shown in Fig. 10A, though cited by the Examiner as teaching using a common pulse sequence to acquire MR images in 2D and 3D, does not support this conclusion. In particular, the Examiner cited element 1020, however, element 1020 is a menu that allows a user to select from one of "2D - Scan" (1022), "2D - Variable TR Scan" (1024), "3D - Scan" (1026), "FSE 2D - Scan" (1028), "FSE 3D - Scan" (1030), "Multiple 2D - Scans" (1032), "Multiple 3D - Scans" (1034), and "Combo Scan" (1030). Nowhere does menu 1020 or any part of Zhang teach or

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suggest that "a common pulse sequence" is used for these different scans. Absent such a teaching, one skilled in the art would assume that Zhang uses a different pulse sequence for each selection, as is what is typically done in the prior art. Therefore, Zhang does not teach or suggest using a common pulse sequence for a 2D acquisition and a 3D acquisition, as claimed.

Therefore, for at least these reasons, claim 18 is believed patentably distinct from the art of record. Accordingly, claims 19-24 are in condition for allowance at least pursuant to the chain of dependency. Should the Examiner disagree, Applicant respectfully requests that the Examiner clearly set forth which of the alternative rejections is being applied. Alternate rejections using both §102 and §103 and the same reference is not proper since a §102 reference must contain each and every element of the claims, and a §103 reference does not. Applying alternate rejections in this regard is inconsistent. The Examiner is to apply the best rejection for the Applicant to respond thereto. See MPEP §904.03. Applicant does not know which rejection to respond to when the Examiner provides alternative rejections of the same claims taking contrary views of what the reference teaches. That is, Kaufman et al. cannot be both a §102 rejection (purporting to teach each and every element) and also be the main the reference in a §103 rejection, which would admit that Kaufman et al. does not teach each and every element of the claims.

Regarding the rejection of claim 25 as being anticipated by Kaufman et al. or, in the alternative as being anticipated by Zhang, Applicant has amended the claim to incorporate the subject matter of claim 26, which the Examiner indicated as allowable. As such, Applicant has canceled claim 26. Accordingly, claims 25 and 27 are in condition for allowance.

#### New Claims

Applicant has added new claims 28-30. Claim 28 incorporates the allowable subject matter of original claims 11 and 12. Similarly, claim 29 incorporates the allowable subject matter of original claims 11 and 16. As such, claims 28 and 29 are allowable, as indicated by the Examiner.

Additionally, Applicant has added new claim 30. Applicant believes claim 30 is allowable over the art of record. Entry and consideration of claim 30 is appreciated.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-25 and 27-30.

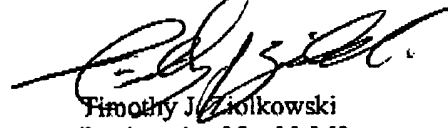
Applicant hereby authorizes charging deposit account no. 07-0845 the amount of \$700.00 for newly presented claims..

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Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



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Dated: February 15, 2005  
Attorney Docket No.: GEMS8081.092

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